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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/892,706	06/27/2001	Frank Bahren	Westphal.6312	4687

7590 09/23/2005
Samuels, Gauthier & Stevens LLP
225 Franklin Street, Suite 3300
Boston, MA 02110

EXAMINER

JAROENCHONWANIT, BUNJOB

ART UNIT	PAPER NUMBER
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2143

DATE MAILED: 09/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/892,706

Applicant(s)

BAHREN ET AL.

Examiner

Bunjob Jaroenchonwanit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 June 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>5/20/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This office action is in response to amendment/reconsideration filed 05/20/05, the amendment/reconsideration has been considered. Claims 6-25 are pending for examination, the rejection cited as stated below.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office Action.
3. Claim 6-25 are rejected under 35 USC § 103 (a) as being unpatentable over Applicant Admitted Prior Art (AAPA) and Angwin et al (US. 6,246,688).
4. AAPA and Angwin have been cited as prior arts in the last office action. The teachings that applicable are respectfully maintained and incorporated by reference as set forth in the last office action.
5. Applicant's arguments filed 05/20/05 have been fully considered but they are not persuasive. In the remarks, without contradicting that whether MOST API and PROXY is admitted prior art, applicant argument directs to whether the term proxy computer is proper interpreted and if the AAPA and Angwin is properly combined.
6. Examiner's claims' interpretation is under guideline, provided in the MPEP, "During patent examination, the pending claims must be "given *>their< broadest reasonable interpretation consistent with the specification." > *In re Hyatt*, 211 F.3d 1367, 1372, 54 USPQ2d 1664, 1667 (Fed. Cir. 2000). < Applicant always has the opportunity to amend the claims during prosecution, and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. *In re Prater*, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-51 (CCPA 1969).

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7. “The words of a claim must be given their “plain meaning” unless they are defined in the specification. While the claims of issued patents are interpreted in light of the specification, prosecution history, prior art and other claims, this is not the mode of claim interpretation to be applied during examination. During examination, the claims must be interpreted as broadly as their terms reasonably allow. > *In re American Academy of Science Tech Center*, ___ F.3d ___, 2004 WL 1067528 (Fed. Cir. May 13, 2004); *In re Zletz*, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989); *Chef America, Inc. v. Lamb-Weston, Inc.*, 358 F.3d 1371, 1372, 69 USPQ2d 1857 (Fed. Cir. 2004) (Ordinary, simple English words whose meaning is clear and unquestionable, absent any indication that their use in a particular context changes their meaning, are construed to mean exactly what they say.” (Emphasis added).

8. “It is only when the specification provides definitions for terms appearing in the claims that the specification can be used in interpreting claim language. *In re Vogel*, 422 F.2d 438, 441, 164 USPQ 619, 622 (CCPA 1970). >See also *Superguide Corp. v. DirecTV Enterprises, Inc.*, 358 F.3d 870, 875, 69 USPQ2d 1865, 1868 (Fed. Cir. 2004)”

9. For instance, the term will interpret in accordance with explicit definition, provided that the specification clearly sets forth the definition explicitly and reasonable clarity, deliberateness, and precision, (*In re Teleflex Inc. v. Ficosa North America corp.*, 63 USPQ2d 1374, 1381 (Fed. Cir. 2002), *Rexnord corp. v. Laitram corp.*, 60 USPQ2d, 1857, 1857 (Fed. Cir. 2001) and MPEP 2111.01.)

10. If the specification fails to meet the above condition, i.e., explicitly defined, the language of the claim should be consider in context of surrounding words and context of the specification

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as a whole, i.e., in light of the specification, (*In re Tex. Digital Sys., Inc. v. Telegeniox, Inc.*, 308 F.3d 1193, 1202, 64 USPQ2d 1812, (Fed. Cir. 2002).

11. "Claim terms are presumed to have the ordinary and customary meanings attributed to them by those of ordinary skill in the art. *Sunrace Roots Enter. Co. v. SRAM Corp.*, 336 F.3d 1298, 1302, 67 USPQ2d 1438, 1441 (Fed. Cir. 2003); *Brookhill-Wilk 1, LLC v. Intuitive Surgical, Inc.*, 334 F.3d 1294, 1298 67 USPQ2d 1132, 1136 (Fed. Cir. 2003)("In the absence of an express intent to impart a novel meaning to the claim terms, the words are presumed to take on the ordinary and customary meanings attributed to them by those of ordinary skill in the art."). It is the use of the words in the context of the written description and customarily by those skilled in the relevant art that accurately reflects both the "ordinary" and the "customary" meaning of the terms in the claims. *Ferguson Beauregard /Logic Controls v. Mega Systems*, 350 F.3d 1327, 1338, 69 USPQ2d 1001, 1009 (Fed. Cir. 2003) (Dictionary definitions were used to determine the ordinary and customary meaning of the words "normal" and "predetermine" to those skilled in the art. In construing claim terms, the general meanings gleaned from reference sources, such as dictionaries, must always be compared against the use of the terms in context, and the intrinsic record must always be consulted to identify which of the different possible dictionary meanings is most consistent with the use of the words by the inventor.); *ACTV, Inc. v. The Walt Disney Company*, 346 F.3d 1082, 1092, 68 USPQ2d 1516, 1524 (Fed. Cir. 2003) (Since there was no definition given for the term "URL" in the specification, the term should be given its broadest reasonable interpretation and take on the ordinary and customary meaning attributed to it by those of ordinary skill in the art; thus, the term "URL" was held to encompass both relative and absolute URLs.); and *E-Pass Technologies, Inc. v. 3Com Corporation*, 343 F.3d 1364, 1368, 67

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USPQ2d 1947, 1949 (Fed. Cir. 2003) (Where no explicit definition for the term "electronic multi-function card" was given in the specification, this term should be given its ordinary meaning and broadest reasonable interpretation; the term should not be limited to the industry standard definition of credit card where there is no suggestion that this definition applies to the electronic multi-function card as claimed, and should not be limited to preferred embodiments in the specification.)” (Emphasis added).

12. After thoroughly consider applicant’s full disclosure (four pages), Examiner found no evidence that suggests examiner must read the term “proxy” as applicant wished (See remark page 8). Since throughout four page of specification there is no slight suggestion that the MOST networks require or need any firewall or administrative control. Since context of the disclosure are to provide controlling devices in the MOST network via radio wave from an external network device. Further, applicant described the MOST network as a network of appliance, such as Radio and TV receiver, CDRom, DVD CD changer cassette player, etc, (see spec Page 12). The aforementioned devices do not require any security feature of firewall, since their content is unchangeable and for entertainment purposes only, rather they, perhaps need and computer interface or computerized control capability. In other words, applicant attempted to provide controlling capability of the MOST networks’ devices from external network via radio transmission using a first unit as a gateway. Applicant then installing an application program interface (API) in the first unit, i.e., cellular phone or the like, for receiving control signal from a device is an external network, e.g., Internet, using wireless communication capability, since the MOST network is described as a network in a motor vehicle. To control devices in a motor vehicle from external network, some kind of interface is required to interface with the API of the

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first device. Clearly, there is not security or access control feature are involved. Applicant should noted that applicant is required to provide a full, clear and concise disclosure to enable one ordinary skill in the art to make and use without undue experimentation. By leaving off specific detail, applicant open door for an ordinary skill in the art, including examiner, to making broad interpretation. Attempting to further narrowing scope of the claim, by using remark is inappropriate and a clear indication of concealment, hindsight reasoning and a matter of convenience argument. If applicant wished to use the proxy other than allowing the API to interface with the device in the MOST network, such as to include security, caching or access control features, why not include such intention in the original specification. By applicant's omission, examiner properly applied the follow.

13. In interpretation of the term proxy, Examiner relied upon Microsoft Press Dictionary, which given the meaning of proxy as

“n. A firewall component that manages Internet traffic to and from a local area network (LAN) and can provide other features, such as document caching and access control. A proxy server can improve performance by supplying frequently requested data, such as a popular Web page, and can filter and discard requests that the owner does not consider appropriate, such as requests for unauthorized access to proprietary files. See also firewall.”

14. Since in context of the specification as aforesaid, the so-called “proxy” neither is the one to manage Internet traffic, the API and the first device is the unit that manages traffic (see Spec page 13 and 15). Throughout the specification does not suggest any caching content related nor required access control to each particular unit. Beside if the access control were needed, should it be more appropriated to install this feature at the first unit, which equipped with the API. Therefore, examiner convinces that the term proxy, in context of the claim and the original

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specification, does not intend to be used as conventional meaning of proxy, or acting as a firewall.

15. Examiner, then applied a general meaning of the term proxy, which the closest interpretation given in the Microsoft Bookshelf Reference is “A person authorized to act for another; an agent or a substitute.” in which when read in context of the claim and in combination with the following phrase “proxy computer,” means a computer software or hardware the act as agent of another. Since the MOST network devices using proxy to communicate with the API, in the sense the proxy in this instance has functionality equivalent to an interface, which conventionally has been used by a device to communicate with another device. Thus, Examiner’s applying the term proxy, as interface is proper.

16. Applicant also argument further relied upon MOST specification version 2.2, the argument is irrelevant since it was not a part of original specification. Examiner declines comment with respect to this argument.

17. Since, examiner properly and rationally, interprets the term proxy as intended in context of the specification, as discussed above. Angwin clearly suggested the idea as claimed, because the interface device or network adapter, which has functionality equivalent to the claimed proxy (which also could be hardware, see Spec page 15) as shown installed in a vehicle network, for enable communication with external network, such as Internet, via a first device 202.

18. Applicant further argued a plurality of unit, adopting a concept of singularity to a plurality is a mere replication, which is obvious and not patentable distinct (*In re Harza*, 274 F.2d 669, 124 USPQ 378 (CCPA 1960).

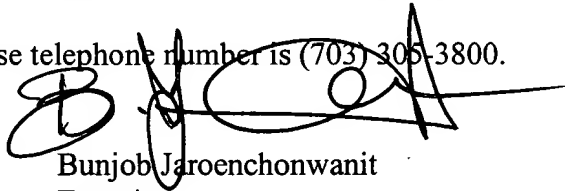
19. Therefore, applicant’s argument is not persuasive.

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20. Accordingly, THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

21. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bunjob Jaroenchonwanit whose telephone number is (703) 305-9673. The examiner can normally be reached on 8:00-17:00. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley can be reached on (703) 308-5221. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 746-7239 for regular communications and (703) 746-7238 for After Final communications. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3800.


Bunjob Jaroenchonwanit
Examiner
Art Unit 2141

/bj
9/19/2005